

REMARKS

I. Introduction

Claims 1-10 are the pending claims in the present application. In response to the Office Action dated August 4, 2009, Applicants have amended claims 1-9 in order to further clarify the subject matter of the present disclosure. No new matter has been added.

Applicants respectfully request that the Examiner separate the discussion of each of the claims into their own separate paragraph, and not recite the language of all 10 claims in a single four-page paragraph.

Applicants respectfully submit that all pending claims are patentable over the cited prior art for the reasons set forth below.

II. The Rejection Of Claims 1-10 Under 35 U.S.C. § 103

Claims 1-10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Akira et al. (JP 62-190660). Applicants respectfully traverse this rejection of the pending claims for at least the following reasons.

Amended independent claim 1 recites, in part, a fuel cell system comprising a control means which controls the fuel gas supplying means, the oxidizing agent gas supplying means and the raw material gas supplying means such that during the starting of electricity generation of the fuel cell, the raw material gas supplying means purges at least the cathode side with the raw material gas before the fuel gas supplying means and the oxidizing agent gas supplying means supply the fuel gas and the oxidizing agent gas to the fuel cell, respectively.

In addition, independent claim 7 recites a method of starting a fuel cell system comprising a fuel cell which generates electric power from a fuel gas and an oxidizing agent gas,

a fuel gas supplying means which supplies the fuel gas to an anode side of the fuel cell, and an oxidizing agent gas supplying means which supplies the oxidizing agent gas to a cathode side of the fuel cell, comprising: a step of purging, during the starting of electricity generation of the fuel cell, at least the cathode side with a raw material gas to be used in the production of the fuel gas before the fuel gas and the oxidizing agent gas are supplied to the fuel cell.

As a preliminary matter, Applicants respectfully submit that the Examiner has failed to provide sufficient evidence that Akira teaches all of the limitations of claims 1-10 of the present disclosure. The Examiner merely recites the full language of each of the claims, and then infers that the limitations are recited in the Abstract and Figs. 1 and 2. Furthermore, the Examiner admits that a full translation of Akira was not attained. Rather, the Examiner suggests that because the European Search Report, which included the English Abstract of Akira and was included in the IDS filed on September 11, 2008, was listed as an "X" reference relevant to claims 1-10. Furthermore, the Examiner has cited no reference numerals, nor specific elements of any of the cited prior art drawings, paragraphs, or even page numbers, as is required in the MPEP.

Applicants respectfully submit that the mere fact that a search report lists a reference as relevant in no way substitutes the statutory requirement that the reference disclose all of the limitations of the claims. Since the Examiner has admittedly failed to do so, Applicants submit that for this reason alone, the claims are allowable over the cited prior art.

In addition, the claims are allowable, at least for the following reasons.

One feature of the present disclosure is a control means which controls the fuel gas supplying means, the oxidizing agent gas supplying means and the raw material gas supplying means such that, during the starting of electricity generation of the fuel cell, the raw material gas

supplying means purges at least the cathode side with the raw material gas before the fuel gas supplying means and the oxidizing agent gas supplying means supply the fuel gas and the oxidizing agent gas to the fuel cell, respectively. As a result of these features, proper stabilization of performance of the fuel cell by reducing problems associated with drying of the electrolyte membrane and local reaction can be reduced. Further, simplification of the design structure of the fuel cell is achieved.

It is alleged that Akira recites the limitations of independent claims 1 and 7. Applicants respectfully disagree. Foremost, as the Examiner has failed to provide any reference numerals or page and line numbers showing where Akira teaches the limitations of claims 1 and 7, Applicants submit that the required evidence has not been demonstrated in the Office Action. Nowhere has the Examiner provided any indication where, in Figs. 1 and 2 and the Abstract, any aspect of the control means is disclosed.

Akira teaches only a suspending method for a fuel cell power generating plant which purges, during a restarting step, a natural gas in the oxidizing agent chamber with a combustion gas. The natural gas and the combustion gas are sufficiently replaced by opening the supply valves 13c and 13e to start the burner 2 and switching the four-way valve 21 to supply the combustion gas to the oxidizing gas chamber 5. Then, the supply of air in the tank C is performed, so that the mixture of the natural gas and the air is prevented. In addition, Akira teaches that, since the catalyst or the like is prevented from being exposed to an oxidizing atmosphere because the entire system is filled with a natural gas during the suspension period, the characteristics of the fuel are maintained for a long period of time.

In contrast, as recited above, the present disclosure recites that the fuel cell system purges, during the starting of electricity generation of a fuel cell, at least a cathode side of the

fuel cell with a raw material gas. Moreover, Akira is completely silent with respect to the control means. Nor is there any detailed suggestion as to where this may be disclosed in the Office Action. As such, Applicants submit that Akira fails to teach or suggest all of the limitations of claims 1 and 7 of the present disclosure.

In order to establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. As is clearly shown, Akira does not disclose a fuel cell system comprising a control means which controls the fuel gas supplying means, the oxidizing agent gas supplying means and the raw material gas supplying means such that during the starting of electricity generation of the fuel cell, the raw material gas supplying means purges at least the cathode side with the raw material gas before the fuel gas supplying means and the oxidizing agent gas supplying means supply the fuel gas and the oxidizing agent gas to the fuel cell, respectively, OR a method of starting a fuel cell system comprising a fuel cell which generates electric power from a fuel gas and an oxidizing agent gas, a fuel gas supplying means which supplies the fuel gas to an anode side of the fuel cell, and an oxidizing agent gas supplying means which supplies the oxidizing agent gas to a cathode side of the fuel cell, comprising: a step of purging, during the starting of electricity generation of the fuel cell, at least the cathode side with a raw material gas to be used in the production of the fuel gas before the fuel gas and the oxidizing agent gas are supplied to the fuel cell. Accordingly, Applicants submit that Imamura does not render claims 1 and 7 of the present disclosure obvious and as such, claims 1 and 7 are patentable and allowable over the cited prior art. Thus, Applicants respectfully request that the § 103(a) rejection of claims 1 and 7 be withdrawn.

III. All Dependent Claims Are Allowable Because The Independent Claim From Which They Depend Is Allowable

Under Federal Circuit guidelines, a dependent claim is nonobvious if the independent claim upon which it depends is allowable because all the limitations of the independent claim are contained in the dependent claims, *Hartness International Inc. v. Simplimatic Engineering Co.*, 819 F.2d at 1100, 1108 (Fed. Cir. 1987). Accordingly, as claims 1 and 7 are patentable for the reasons set forth above, it is respectfully submitted that all pending dependent claims are also in condition for allowance.

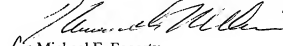
IV. Conclusion

Having fully responded to all matters raised in the Office Action, Applicants submit that all claims are in condition for allowance, an indication of which is respectfully solicited.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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